



County of Los Angeles CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN
Chief Administrative Officer

July 2, 2004

Board of Supervisors
GLORIA MOLINA
First District

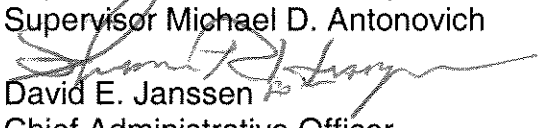
YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

To: Supervisor Don Knabe, Chairman
Supervisor Gloria Molina
Supervisor Yvonne B. Burke
Supervisor Zev Yaroslavsky
Supervisor Michael D. Antonovich

From: 
David E. Janssen
Chief Administrative Officer

SACRAMENTO UPDATE

State Budget -- Local Government Constitutional Protection

Late yesterday evening we received the attached amendment (Attachment A) to Assembly Constitutional Amendment 9 which replaces the original language that dealt with a different subject. While this language offers local governments some of the protections agreed to by the Governor and local governments, it omits some protections, weakens others, and generally falls short of what local governments are seeking in return for their commitment to give the State \$2.6 billion over the next two years to reduce the State's budget deficit. Attachment B is a detailed comparison of how this amendment differs from the agreement with the Governor.

While there is little information, the proposed amendment apparently represents a "compromise" proposal from Democratic Legislative Leaders that addresses their concerns that the Governor's agreement would limit the authority and flexibility of State policy makers in the future. Rumor has it that most Republican (and some Democratic) legislators are opposed to the proposal because it does not put a 0.65 VLF rate in the Constitution and does not adequately protect local property and sales tax revenues. The Governor's position is unknown.

Following a conference call of CSAC officers this morning, as well as consultation with the other local government organization comprising the Local Coalition, CSAC sent the attached letter of opposition (Attachment C) to members of the Legislature which lists the problems that they have with the proposal. Staff from the local organizations subsequently met with staff from the Governor's Office and the Department of Finance to discuss their objections more fully. Administration staff primarily listened without commenting and did not speculate as to how things would proceed.

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By mid-afternoon the prevailing rumors were that the proposal was dead because of growing opposition from rank and file legislators in both parties. The Governor's Office issued a press release affirming the Governor's support for the original agreement and urging the Legislature to pass it quickly. However, that does not mean that the original agreement will pass despite the opposition of Democratic Leaders. It may yet be necessary to try and negotiate some changes in the new proposal to meet the more important concerns of local governments. The State may take the \$2.6 billion of local revenue, even without an agreement, in which case local governments may proceed to mount a campaign for the local initiative that they have qualified for the November ballot.

AB 3632/AB 2726 Mental Health Services for Children With Disabilities

A Sacramento Superior Court has ruled that San Diego County need not continue to provide AB 3632/AB 2726 Mental Health Services for Children With Disabilities State-mandated services unless the State fully funds the cost of the program. For the past two years, the State budget has deferred payment on all back claims and only partially reimbursed counties for current claims, forcing them to make up the difference. Last year a court in Tuolumne County made a similar ruling regarding AB 3632 services, at which point the County stopped providing the services. The State then sued and the case is on appeal. The San Diego case will likely be appealed. However, the ruling may have the effect of creating additional pressure on the Legislature to develop a different way of dealing with mandates when the State has a major budget deficit.

We will continue to keep you advised.

DEJ:GK
MAL:JR:hg/n

Attachments

c: Executive Officer, Board of Supervisors
 County Counsel
 Local 660
 All Department Heads
 Legislative Strategist
 Coalition of County Unions
 California Contract Cities Association
 Independent Cities Association
 League of California Cities
 City Managers Associations

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Substantive

AMENDMENTS TO ASSEMBLY CONSTITUTIONAL AMENDMENT
NO. 9

AS AMENDED IN ASSEMBLY APRIL 21, 2003

Amendment 1

In line 1 of the heading, strike out "Assembly Member Levine" and insert:

Amendment 2

Strike out lines 3 to 6, inclusive, of the title, and insert:

Constitution of the State, by amending Section 15 of Article XI thereof, by adding Section 25.5 to Article XIII thereof, and by amending Section 6 of Article XIII B thereof, relating to local government finance.

Amendment 3

On page 3, strike out line 12, and insert:

First--That Section 15 of Article XI thereof is amended to read:

SEC. 15. (a) All From the revenues derived from taxes imposed pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code), or its successor, other than fees on trailer coaches and mobilehomes, over and above the costs of collection and any refunds authorized by law, shall be allocated to counties and cities according to statute.

(b) This section shall apply to those taxes imposed pursuant to that law on and after July 1 following the approval of this section by the voters; those revenues derived from that portion of the vehicle license fee rate that does not exceed 0.65 percent of the market value of the vehicle shall be allocated as follows:

(a) An amount shall be specified in the Vehicle License Fee Law, or the successor to that law, for deposit in the State Treasury to the credit of the Local Revenue Fund established in Chapter 6 (commencing with Section 17600) of Part 5 of Division 9 of the Welfare and Institutions Code, or its successor, if any, for

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allocation to cities, counties, and cities and counties as otherwise provided by law.

(b) The balance shall be allocated to cities, counties, and cities and counties as otherwise provided by law.

Second--That Section 25.5 is added to Article XIII thereof, to read:

SEC. 25.5. (a) On or after November 3, 2004, the Legislature shall not enact a statute to do either of the following:

(1) (A) Except as otherwise provided in subparagraph (B), modify the manner in which ad valorem property tax revenues are allocated in accordance with subdivision (a) of Section 1 of Article XIII A so as to reduce for any fiscal year the percentage of the total amount of ad valorem property tax revenues in a county that is allocated among all of the local agencies in that county below the percentage of the total amount of those revenues that would be allocated among those agencies for a fiscal year under the statutes in effect on November 3, 2004. For purposes of this subparagraph, "percentage" does not include any property tax revenues referenced in paragraph (2).

(B) Subparagraph (A) may be suspended for a fiscal year if all of the following conditions are met:

(i) The Governor issues a proclamation that declares that, due to fiscal necessity, the suspension of subparagraph (A) is necessary;

(ii) The Legislature enacts an urgency statute, pursuant to a bill passed in each house of the Legislature by rollcall vote entered in the journal, two-thirds of the membership concurring, that contains a suspension of subparagraph (A) for that fiscal year.

(iii) The Legislature enacts a statute providing for the full repayment to local agencies of the total amount of revenue losses resulting from the modification of ad valorem property tax revenue allocations to local agencies. This repayment shall be made within a period not to exceed the three fiscal years next following the fiscal year to which the modification applies.

(2) Reduce, suspend, or delay any allocation required to be made to a city, county, or city and county under Section 97.68 of the Revenue and Taxation Code as that section read on November 3, 2004.

(b) Revenues derived from the taxes imposed under the Bradley-Burns Uniform Local Sales and Use Tax Law set forth in Part 1.5 (commencing with Section 7200) of Division 2 of the Revenue and Taxation Code or in accordance with the Transactions and Use Tax Law set forth in Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code shall remain with local entities for local purposes.

(c) For purposes of this section, the following definitions apply:

(1) "Ad valorem property tax revenue" means all revenue derived from the tax collected by a county under subdivision (a) of

Section 1 of Article XIII A, regardless of any of this revenue being otherwise classified by statute.

(2) "Local agency" has the same meaning as specified in Section 95 of the Revenue and Taxation Code as that section read on November 3, 2004.

Third--Section 6 of Article XIII B thereof is amended to read:

SEC. 6. (a) Whenever the Legislature or any state agency mandates a new program or higher level of service on any local government, the State shall provide a subvention of funds to reimburse such that local government for the costs of such the program or increased level of service, except that the Legislature may, but need not, provide a subvention of funds for the following mandates:

(a)

(1) Legislative mandates requested by the local agency affected;

(b) affected.

(2) Legislation defining a new crime or changing an existing definition of a crime; or

(c) crime.

(3) Legislative mandates enacted prior to January 1, 1975, or executive orders or regulations initially implementing legislation enacted prior to January 1, 1975.

(b) For the 2005-06 fiscal year and every subsequent fiscal year, for a mandate for which the cost of a local government claimant have been determined in a preceding fiscal year to be payable by the State pursuant to law but have not previously been paid, the Legislature shall either appropriate the full amount in the annual Budget Act to pay the total claims approved in the prior fiscal year with respect to that mandate, or suspend the operation of the mandate in the current fiscal year in a manner prescribed by law.

(1) This subdivision applies to a mandate only as it affects a city, county, city and county, or special district.

(2) This subdivision shall not apply to a requirement to provide or recognize any procedural or substantive protection, right, benefit, or employment status of any local government employee or retiree, or of any local government employee organization, that arises from, affects, or directly relates to future, current, or past local government employment and that constitutes a mandate subject to this section.

(c) A mandated new program or higher level of service includes a transfer by the Legislature from the State to cities, counties, cities and counties, or special districts of complete or partial financial responsibility for a required program for which the State previously had complete or partial financial responsibility.

Fourth--That the people find and declare that this

measure and the Local Government Property Tax Protection Act, which appears as Proposition 65 on the November 2, 2004, general election ballot (hereafter Proposition 65) both relate to local government, including matters concerning tax revenues and reimbursement for the cost of state mandates, in a comprehensive and substantively conflicting manner. Because this measure is intended to be a comprehensive and competing alternative to Proposition 65, it is the intent of the people that this measure supersede in its entirety Proposition 65, if this measure and Proposition 65 both are approved and this measure receives a higher number of affirmative votes than Proposition 65. Therefore, in the event that this measure and Proposition 65 both are approved and this measure receives a higher number of affirmative votes, none of the provisions of Proposition 65 shall take effect.

Amendment 4

On page 3, strike out lines 13 to 40, inclusive, and
strike out page 4

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Local Government Constitutional Amendment

Governor's Original Measure

Vehicle License Fees (VLF):

- Caps VLF rate at 0.65% in the California Constitution.
- Requires state to backfill further VLF reductions (through larger property tax swaps) if rate is reduced below the cap.
- Constitutionally protects existing Realignment VLF. Also, constitutionally protects the difference between Realignment VLF and the statutory 0.65% rate for cities and counties.
- Constitutionally requires repayment of VLF "gap loan" by August 2006 (which is currently in statute).

Local Government Protection:

- Constitutionally protects the property tax and local sales tax from reduction, take-away, and any reallocation by the state.
- Protects VLF replacement revenue and ¼-cent sales tax revenue during the "triple-flip."
- Does not provide for any flexibility in fiscal emergency.

Compromise Measure (ACA 9)

- No cap in Constitution. Rather, rate would be reduced to 0.65% in statute.
- Deletes this requirement and repeals the VLF backfill.
- Same.
- Remains in statute, but not in Constitution.
- Constitutionally bars the Legislature from taking property taxes from non-school local governments (thus, prohibits future ERAF shifts).
- Protects local Bradley-Burns and other locally-imposed sales tax revenues for local purposes.
- Same
- Permits the Legislature to borrow local government property taxes only if (1) the Governor issues a proclamation of fiscal necessity; (2) the Legislature enacts a 2/3 vote urgency statute to suspend prohibition; and (3) the Legislature passes a statute to fully repay the loan over the subsequent three fiscal years.

Mandate Funding Provisions:

- Provides for automatic repeal of unfunded mandates. Eliminates authority to suspend mandates. Excludes education mandates and mandates related to employee rights and benefits.
- Expands the definition of reimbursable mandates to include full or partial shifts of financial responsibility for state programs to local governments.
- Constitutionally schedules repayment of deferred mandates over 5 years, beginning in 2006-07.
- Eliminates the ability of the Legislature to defer reimbursement to local governments of mandate costs. Mandates would have to be funded or suspended. Excludes education mandates and mandates related to employee rights and benefits.
- Same.
- Constitutionally permits repayment of previously-deferred mandates over multiple years, with repayment schedule set up in statute.



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July 2, 2004

To: Members, California State Senate
Members, California State Assembly

From: Steven C. Szalay, Executive Director

Re: **Local Government Budget Package - OPPOSE AMENDMENTS**

The California State Association of Counties (CSAC) requests your "no" vote on proposed amendments to Assembly Constitutional Amendment 9, relating to protection of local government revenues. These amendments, shared with CSAC late yesterday, represent a significant departure from the proposal we negotiated with the Administration in return for \$2.6 billion in reductions and are unacceptable to counties and our local government partners. They fail to provide adequate protection for local government revenues and the predictability and stability we are seeking for the future.

Specifically, some problems with the proposed amendments include:

1. Property tax protection suspension provisions are not stringent enough.
2. 1% Bradley-Burns sales and use tax rate is not protected.
3. Property and sales tax allocations are not protected.
4. Unclear if redevelopment agencies property tax increment is protected.
5. There are no backfill provisions if the VLF is reduced below 0.65%.
6. Unclear as to mandate protection and relief for new and existing mandates. No provisions for interest due on delayed processing of claims.
7. Special district reduction allocations have been modified. We oppose the change in formula.
8. There are no protections for repayment of the \$1.2 billion VLF gap loan.

As a result, CSAC requests your "no" vote on proposed amendments to ACA 9.